

TELEPHONE: (601) 987-3079



FAX: (601) 987-4159

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

TO: Mississippi Secretary of State

From: Mississippi State Board of Medical Licensure

Date: January 22, 2010

Subject: Notice of Proposed Rule Adoption - Final Rule

Mississippi Code §73-43-11 gives the Mississippi State Board of Medical Licensure the power to promulgate and publish reasonable rules and regulations necessary to enable it to discharge its functions and to enforce the provisions of law regulating the practice of medicine.

This rule as adopted is without variance from the proposed rule.

This is an amendment to Board regulation, Chapter 08, Release of Medical Records. The amendment to this regulation removes the wording that specifically addresses physicians and replaces it with licensee. This is due to the Board licensing and regulating professions other than physicians.

Chapter 08 Release of Medical Records

Definitions

100 For the purpose of Chapter 08 only, the following terms have the meanings indicated:

1. “Licensee” means any person licensed to practice medicine, osteopathic medicine, podiatric medicine or acupuncture in the state of Mississippi.
2. “Medical Records” means all records and/or documents relating to the treatment of a patient, including, but not limited to, family histories, medical histories, report of clinical findings and diagnosis, laboratory test results, x-rays, reports of examination and/or evaluation and any hospital admission/discharge records which the licensee may have.
3. “Patient” means a natural person who receives or should have received health care from a licensed licensee, under a contract, express or implied, whether or not the licensee is compensated for services rendered.
4. “Legal Representative” means an attorney, guardian, custodian, or in the case of a deceased patient, the executor/administrator of the estate, surviving spouse, heirs and/or devisees.

Medical Records - Property of Licensee/Clinic

200 Medical records, as defined herein, are and shall remain the property of the licensee or licensees, in whose clinic or facility said records are maintained, subject, however, to reasonable access to the information contained in said records as set forth herein below.

Transfer of Patient Records to Another Licensee

300 A licensee who formerly treated a patient shall not refuse for any reason to make the information contained in his or her medical records of that patient available upon request by the patient, or legal representative of the patient, to another licensee presently treating the patient. The licensee has a right to request a written release from the patient or legal representative of the patient, authorizing the transfer prior to transfer of said documents. Upon receipt of the written release and authorization, the licensee must tender a copy of said documents to the other licensee within a reasonable period of time. Transfer of said documents shall not be withheld because of an unpaid bill for medical services, but the licensee is entitled to reasonable compensation paid in advance for any copy expenses as provided in Section 600.

Release of Patient Records to Patient

400 A licensee shall, upon request of the patient, patient's legal representative, or other person holding a written release and authorization (hereinafter, “authorized requesting party”), provide a copy of a patient's medical record to the authorized requesting party; provided, however, where release of psychiatric/psychological records directly to a patient would be deemed harmful to the patient's mental health or well-being, the licensee shall not be obligated to release the records directly to the patient, but shall, upon request, release the

records to the patient's legal representative. The licensee has a right to request a written authorization prior to release of the records. Upon receipt of the written release and authorization, the licensee must tender a copy of the records to the authorized requesting party within a reasonable period of time. Transfer of the records shall not be withheld because of an unpaid bill for medical services, but the licensee is entitled to reasonable compensation paid in advance for any copy expenses as provided in Section 600.

Narrative Summary of Medical Record

- 500 In some cases, a requesting party may wish to obtain a narrative summary of the medical record, in lieu of, or in addition to a copy of the medical record. Upon such a request, the licensee may provide the narrative summary. The licensee may charge a reasonable fee for the time devoted to preparation of the medical record narrative summary.

Duplication and Administrative Fees

- 600 Licensees have a right to be reimbursed for duplication and other expenses relating to requests for medical records. The copying charge is set by Mississippi Code, Section 11-1-52 as follows: Any medical provider or hospital or nursing home or other medical facility shall charge no more than the following amounts to patients or their representatives for photocopying any patient's records: Twenty Dollars (\$20.00) for pages one (1) through twenty (20); One Dollar (\$1.00) per page for the next eighty (80) pages; Fifty Cents (50¢) per page for all pages thereafter. Ten percent (10%) of the total charge may be added for postage and handling. Fifteen Dollars (\$15.00) may be recovered by the medical provider or hospital or nursing home or other medical facility for retrieving medical records in archives at a location off the premises where the facility/office is located. In addition, the actual costs of reproducing x-rays or other special records may be included. The duplication and administrative fees authorized herein are not intended to include or restrict any fees charged in relation to expert testimony.
- 601 A licensee shall only charge normal, reasonable and customary charges for a deposition related to a patient that the licensee is treating or has treated.
- 602 Any medical provider shall charge no more than Twenty-five Dollars (\$25.00) for executing a medical record affidavit, when the affidavit is requested by the patient or the patient's representative.

Exclusion

- 700 Federal or state agencies providing benefit programs are excluded from the above stated fees. Records that are requested by state or federal agencies for said benefit programs shall pay an acceptable rate as established by the requesting federal or state agency.

Violation of Regulations

- 800 A refusal by a licensee to release patient records as enumerated above shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

**Amended March 16, 1995. Amended July 18, 2002. Amended September 18, 2003.
Amended September 16, 2004. Amended May 17, 2007. Amended January 21, 2010.**